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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

LORENA C.,

Petitioner,

v.

THE SUPERIOR COURT OF
LOS ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Real Party in Interest.

B295217

(Los Angeles County
Super. Ct. No. 18CCJP06463A)

ORIGINAL PROCEEDING. Petition for extraordinary writ.
(Cal. Rules of Court, rule 8.452.) Debra Losnick, Judge. Petition
denied.

Los Angeles Dependency Lawyer's Inc., Law Office of Rachel
Ewing, Frank Ahn and Marcellous Glasper for Petitioner.

No appearance for Respondent.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Peter Ferrera, Principal Deputy County Counsel, for Real Party in Interest.

Children's Law Center of Los Angeles CLCLA1, Daniel Szrom and Anna Testa for Minor, J.R.

Lorena C. (Lorena), the former legal guardian of Junior R. (Junior, born May 2003), filed a petition for extraordinary writ (Cal. Rules of Court, rule 8.452) challenging orders of the juvenile court, made with respect to Junior, sustaining a Welfare and Institutions Code section 300 petition¹ and terminating the guardianship. The juvenile court denied reunification services and set a hearing pursuant to section 366.26. We deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

The Family

Junior and his siblings, Paola R. (Paola, born July 2000), Ruben R. (Ruben, born April 2005), and Victor R. (Victor, born February 2007), were living in Colorado in 2009 when they were placed with Lorena, their aunt, following allegations of abuse and neglect by their mother. In February 2010, a court in Arapahoe County, Colorado granted Lorena legal guardianship of the children, giving her sole legal custody. Lorena and her husband, Juan A., have lived in California with the children since at least 2013.

The Prior Dependency Proceeding and Appeal

In November 2017, a section 300 petition was filed, following referrals alleging that Junior's sister, Paola, had been locked up at home for several years, was forced to copy from the Bible and old textbooks from early in the morning until evening, was rarely allowed

¹ Unless otherwise noted, all statutory references are to the Welfare and Institutions Code.

to use the restroom, and was under constant video surveillance. In June 2018, the juvenile court sustained allegations under section 300, subdivision (c) and (i) pertaining specifically to Paola, and declared the four minors dependents of the juvenile court. This court subsequently affirmed the juvenile court's jurisdictional and dispositional orders. We recount here relevant facts and events from that prior dependency proceeding and appeal (*In re Paola R.* (May 29, 2019, B290847) [nonpub. opn.]).²

Reports and interviews

In interviews conducted after the initial November 2017 referral, Paola (then 17) informed a Los Angeles County Department of Children and Family Services (DCFS) social worker that she was isolated in the home and could not leave without Lorena accompanying her. Since eighth grade she had been homeschooled, which consisted of sitting at the kitchen table from 5:00 a.m. to 7:00 p.m. copying pages from the Bible and other books, while under constant video surveillance. Paola was only allowed to use the bathroom twice per day and was not allowed to shower.

Paola further reported that she had suffered emotional abuse since coming to live with Lorena, who threw away all of her family photos and cut her hair to make her look like a boy. On other occasions, Lorena cut Paola's hair because she did not finish her homework and because she got lice. Lorena excluded Paola from family dinners, outings, and holiday celebrations, and did not allow her to have friends. She told Paola's brothers that Paola was not a good person, and told Paola she did not want her near the boys. She also would tell Paola that she smelled, even though it was Lorena who prevented Paola from showering. Additionally, Paola reported that

² We take judicial notice of the opinion in *In re Paola R.* (B290847) as well as the appellate record. Additionally, Lorena's request to augment the record, filed May 24, 2019, and request for judicial notice, filed June 21, 2019, are granted.

Lorena hit her, slapped her, pulled her hair, and threw things like a shoe and a water bottle at her.

Junior was also interviewed by a DCFS social worker. He confirmed Paola's account of events, and further stated that he and his brothers had been warned to say nothing about Paola's treatment or they would also be "pulled out" of school. Junior and his brothers were not allowed to talk to Paola, and she was not allowed to talk to them. Junior reported that Lorena only allowed Paola to shower when she was on her period, even though Paola asked to shower every day. When Lorena learned that Junior had reported the matter at school, Lorena slapped him on the face and called him names, told him he was no longer part of the family and would need to sleep on the floor in the living room along with Paola, and said he would need permission to use the bathroom. Junior also reported that he was required to sell candy to buy clothing for himself, but that Lorena often took the money for her personal use. Furthermore, Junior stated that when his younger brother Victor wet the bed, Lorena would beat Victor with a belt and put him in a cold shower.

Ruben and Victor were both interviewed. Neither claimed that they had experienced abuse.

Jurisdiction/disposition

At the June 2018 hearing, Paola testified and reiterated her earlier statements, and clarified that she was allowed to use the bathroom once in the morning and once before bed. If she needed to go to the bathroom during the day, Lorena would either tell her "no" or to wait. She was only allowed to shower twice a month. During her three-and-a-half years of high school, she did not talk to kids other than Lorena's daughter, who was several years older than Paola. When Paola was younger, Lorena disciplined her by hitting or slapping her, and Lorena hit Paola's brothers as well. Junior also testified, and repeated information he had provided during interviews, further

stating that Lorena took money he earned from selling candy and used it to buy marijuana.

After considering the evidence and oral argument, the juvenile court sustained a section 300, subdivision (c)(1) allegation, finding that Lorena created a detrimental home environment for Paola by emotionally abusing her, isolating her in the home, and not allowing her to socialize outside the home and attend family outings. The court found that this conduct “on the part of [Lorena] places [Paola] at substantial risk of suffering serious emotional damage as evidenced by severe anxiety, depression, withdrawal, and aggressive behavior toward herself and others.” The court also sustained an allegation under subdivision (i), finding that the conduct Lorena exhibited—restricting Paola to the home, homeschooling her without appropriate paperwork, having a camera on her all day, restricting her in her ability to shower and go to the bathroom, preventing her from having “any contact with the outside world literally for 4 years,” and “the totality of the picture”—amounted to cruelty. In so ruling, the juvenile court specifically found that Lorena intended to commit the wrongful acts, and that Lorena’s conduct shocked the conscience of the court.

The juvenile court dismissed remaining counts, which had alleged that Lorena placed all four children at risk of serious harm by slapping Junior, and that Junior was placed at risk of serious emotional damage by being forced to sell candy and sleep on the floor, and by Lorena telling the other children not to speak with him. These dismissed counts were the only ones specifically referencing Junior and his younger brothers. Nevertheless, in issuing its dispositional order, the juvenile court found “clear and convincing evidence there is a substantial danger to the minors’ physical, mental well-being. There is no reasonable means to protect them.” The court ordered all four children detained and that Lorena and her husband be provided with reunification services as to all four.

On appeal,³ Lorena argued that the juvenile court's findings that Paola came within the provisions of section 300, subdivisions (c) and (i) were not supported by substantial evidence. This court determined the appeal was not moot and elected to reach the issues raised by Lorena—even though Paola had turned 18 shortly after the jurisdiction/disposition hearing—because the juvenile court's findings could have future consequences with regard to Junior and his two younger brothers. We found that ample evidence supported both bases for jurisdiction, and accordingly affirmed.

The Instant Proceeding

Early October 2018 interviews

On October 2, 2018, a DCFS social worker conducted separate interviews of Junior, Ruben, and Victor. All three were living in the same foster home.

Junior, then 15, told the social worker that he did not want to go back to live with Lorena and did not wish to visit with her. He had last seen her in July, while at the dependency court for a hearing. Junior reported that Lorena had previously hit him with her hands, shoes, and clothes hangers, and that she had also hit Victor with her hands, shoes, and other objects. She had also forced Victor to take cold showers with his clothes and shoes on. Junior said that prior to the children's placement out of the home, Victor had been subject to more physical abuse than Paola.

³ Following Lorena's filing of the notice of appeal, Lorena filed a motion to dismiss the three younger children from juvenile court jurisdiction in the prior case on September 28, 2018. Lorena argued that, by dismissing all jurisdictional counts referencing the three minors, the juvenile court had no legal authority to declare the minors dependents of the court. On October 9, 2018, the juvenile court in the prior proceeding granted Lorena's motion and vacated its dispositional orders. The court noted that an amended petition had recently been or would be filed, and that the minors remained placed under the supervision of DCFS.

Ruben, then 13, stated that he had visited with Lorena weekly and enjoyed the visits. He wished to return to Lorena's home. Ruben reported that Lorena had never hit him, though she had hit Victor. When questioned further about Lorena's treatment of Victor, Ruben stated he did not want to talk about it.

Victor, then 11, said that he also enjoyed his weekly visits with Lorena and wanted to live with her. He said that Lorena used to hit him for doing "bad stuff," but he believed that now she would "not harm me because she has changed."

The report further stated that, according to Lorena, Hector R., the father of Paola and Junior, was last known to be living in Georgia. The location of Roberto B., the father of Victor and Ruben, was unknown. Additionally, Cira A., the mother of the children, was reported to be living in Mexico. A notice previously sent to Cira's last known address in Colorado was returned, marked "Return to Sender – Unclaimed."

Lorena had completed 40 weeks of a 52-week parenting class, with perfect attendance. She had weekly unmonitored visits with Ruben and Victor but said she was not ready to visit with Paola and Junior.

The section 300 petition

On October 4, 2018, DCFS filed a new section 300 petition, commencing this proceeding. The petition alleged that Lorena's physical abuse of Victor and emotional abuse of Paola placed Junior, Ruben, and Victor at risk of serious physical or emotional harm. Following the filing of affidavits of prejudice, the matter was transferred to a different department from the one that heard the prior proceeding.

Further investigation

The three minors were interviewed again later that October. Junior reported that Lorena would slap him, pull his hair, and throw objects at him. He stated that Lorena hit Victor with hangers and

belts, and would make him take cold showers with his clothes on up to three times a week. Ruben acknowledged that Victor would be spanked by Lorena, with hands and a belt, and was forced to take cold showers. Victor was interviewed and largely confirmed Ruben's account, and also said that Lorena hit Junior. DCFS believed that Victor minimized the abuse and appeared to blame himself for it.

Junior had been receiving weekly individual therapy. He noted that Lorena would call the foster home to speak with Ruben and Victor, but "she doesn't even ask to speak to me." Moreover, even though she had given consent for Junior to be treated for an appendicitis, she never called to ask how he was doing.

Paola was also interviewed in October 2018. She said that she saw Lorena hit Victor with her hands and a belt, and occasionally with other objects, and that Lorena would give Victor cold showers while he was clothed. Paola further stated that Lorena would humiliate Victor by "recording" him while he cried.

Lorena was interviewed as well. She denied most of the allegations with respect to Victor, acknowledging only spanking him with her hand over his clothes years prior when he was disobedient. She also largely denied mistreating Paola. Lorena said that she attempted to keep in contact with Junior but was told he "did not want to have anything to do with me."

DCFS reported that one father, Hector, was in Mexico, while the location of the other father and the mother was still unknown.

Jurisdictional hearing

The jurisdictional hearing was held on October 29, 2018. Victor testified that Lorena, who he referred to as his mom, had been hitting him from the time he was in first grade through fifth grade, when he was removed from her care. Lorena would hit him with a belt or with hangers on his legs and thighs, sometimes giving him bruises. She also made him take cold showers with his clothes on. And, on more than

five occasions, she took a picture or video of him when he cried, which made him mad.

Victor recalled previously telling the social worker that he wanted to go back to live with Lorena, but he was not sure he still felt that way. He admitted that he had been scared in the past to speak up about Lorena hitting him. He had also been scared to say that he was afraid of Lorena, because he felt he would get in trouble with her if he did.

The juvenile court sustained an amended section 300 petition under subdivisions (a), (b), (c), (i), and (j), finding that Junior, Ruben, and Victor were at risk due to Lorena's physical abuse of Victor and emotional abuse of Paola. In doing so, the court stated "[T]his is one of the most egregious examples of psychological [abuse] I've seen in the 28 years that I have sat on this bench." The matter was continued for disposition.

Junior's section 388 petition

Prior to the dispositional hearing, on December 6, 2018, Junior filed a petition pursuant to section 388, seeking to terminate Lorena's legal guardianship of him, set a permanency planning hearing, and appoint his current caretaker as Junior's new legal guardian. The petition stated that Junior did not wish to return to Lorena's care, and that he enjoyed a stable and supportive relationship with his current caretaker, who was willing to serve as his legal guardian. The proof of service on the petition indicated that it was served on the Colorado District Court for Arapahoe County, the court that had issued the guardianship. The matter was set to be heard on January 15, 2019.

Disposition as to Ruben and Victor

The disposition hearing as to only Ruben and Victor was held on December 12, 2018. By the time of the hearing, both Victor and Ruben were no longer visiting with Lorena. Victor had been declining visits, saying he did not want to see or talk to Lorena or her husband. The foster father reported that Victor was afraid Lorena would "say things"

to Victor and Ruben. Lorena had completed a 52-week parenting program, but reported she had been “dropped from school and from counseling” due to missing classes.

At the hearing, the juvenile court declared Ruben and Victor dependents, found that it would be detrimental to place them with Lorena, and ordered reunification services for Ruben and Victor.

The juvenile court’s rulings as to Junior

The juvenile court held a hearing on Junior’s section 388 petition and disposition on January 15, 2019.

Prior to the hearing, DCFS submitted a response to Junior’s section 388 petition, reporting that Junior wished for Lorena’s guardianship to be terminated and for Junior’s foster father to instead be granted legal guardianship. The foster father agreed with this plan. Junior felt a connection to his foster father and called him “Pa.” Junior appreciated feeling accepted by his foster father and cared for, stating “all this weight has been lifted from me.”

DCFS recommended that Lorena’s guardianship of Junior be terminated. It noted that Junior was 15 years old and able to express his wishes clearly, and that Lorena had made no effort to try to reestablish a relationship with Junior. DCFS further recommended that reunification services be denied and that the juvenile court set a permanency planning hearing.

At the hearing, DCFS joined with Junior’s counsel in asserting that the section 388 petition should be granted and Lorena’s guardianship terminated. Lorena’s counsel argued that the petition should be denied, contending there had been no change of circumstances, and that reunification services should be provided because Junior was similarly situated to Ruben and Victor.

The juvenile court granted Junior’s section 388 petition, finding that, due to Junior’s age and wishes, he was differently situated from his younger brothers, and that terminating Lorena’s guardianship was in his best interest. The court determined that there had been a

sufficient change in circumstances to grant the petition because Junior was no longer in Lorena's home and did not wish to return there. The court denied Lorena reunification services as to Junior.

As for disposition, the juvenile court declared Junior a dependent, denied reunification services for the biological parents as their whereabouts were unknown, and set a permanency planning hearing for Junior.

Lorena timely filed a notice of intent to file a writ petition.

DISCUSSION

Lorena makes three arguments in her petition. First, she argues that the juvenile court's termination of her guardianship of Junior was improper because the guardianship was established outside of California, and because a section 388 petition was the incorrect procedure for seeking termination. Second, she contends that DCFS was estopped from pursuing the instant proceeding because essentially identical allegations were fully litigated in the prior proceeding. And, third, she argues that certain jurisdictional findings as to Junior were not supported by substantial evidence.

I. Termination of the guardianship

A. Termination of an out-of-state guardianship

Lorena contends that, because her legal guardianship was established by a court in Colorado, the juvenile court was required to comply with the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) (Fam. Code, § 3400, et seq.) in terminating the guardianship, and failed to do so.

The UCCJEA "governs dependency proceedings and is the exclusive method for determining the proper forum to decide custody issues involving a child who is subject to a sister state custody order." (*In re Cristian I.* (2014) 224 Cal.App.4th 1088, 1096.)

Under Family Code section 3421, subdivision (a)(1), a California court has jurisdiction to make an initial child custody determination if California is the "home state" of the child when the proceeding

commences. “Home state” is defined as “the state in which a child lived with a . . . person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.” (Fam. Code, § 3402, subd. (g).) Thus, because Junior had lived in California since 2013 or earlier with Lorena—a “person acting as a parent” (see Fam. Code, § 3402, subd. (m))—California was Junior’s home state at all times pertinent to the proceeding.

When California is the home state of a child, a California court may modify a “child custody determination made by a court of another state” under certain circumstances. (Fam. Code, § 3423.) These circumstances include when the court of the other state determines it no longer has continuing jurisdiction or that a California court would be a more convenient forum. (Fam. Code, § 3423, subd. (a).) Lorena contends that the Colorado court never made such a determination, and therefore the juvenile court lacked authority to terminate the guardianship. We note that courts have found that another state may decline to exercise jurisdiction through “inaction,” such as by failing to respond to communications requesting that the state determine whether it has continuing jurisdiction. (*In re A.C.* (2017) 13 Cal.App.5th 661, 674-675; *In re M.M.* (2015) 240 Cal.App.4th 703, 716-717.) In this matter, Junior’s section 388 petition seeking to terminate Lorena’s legal guardianship was served on the Colorado court that issued the 2010 order granting the guardianship. The Colorado court did not respond to the petition.

We need not decide whether this inaction was sufficient to constitute a relinquishment of jurisdiction by the Colorado court, however, because the juvenile court here had sufficient basis under another provision of Family Code section 3423 to terminate the guardianship. Subdivision (b) of Family Code section 3423 allows a California home state court to modify an order by a court from another state if the California court “determines that the child, the child’s

parents, and any person acting as a parent do not presently reside in the other state.”

Although none of the parties raised the applicability of Family Code section 3423 at the hearings in this proceeding, and therefore the juvenile court was not prompted to directly address the issue, we find there was, at a minimum, an implied determination that the requirements of Family Code section 3423, subdivision (b) were met. Junior and Lorena had lived in California for years prior to the commencement of this proceeding. And there was no assertion made or evidence presented that either of Junior’s biological parents still lived in Colorado—indeed, the evidence pointed to the opposite conclusion. Junior’s father was last known to live in Georgia. Notices sent to the mother at her former address in Colorado were returned unclaimed, and she was reported to be living in Mexico. Moreover, at the January 2019 hearing where the juvenile court terminated Lorena’s legal guardianship, the court found, on the record, that the biological parents’ whereabouts were unknown. Given these circumstances, we find no violation of the UCCJEA in terminating the guardianship.⁴

B. Use of a section 388 petition

In a secondary argument, Lorena contends that the filing of a section 388 petition was not a procedurally proper method of seeking to terminate the guardianship. Lorena failed to object to the petition on this basis in the juvenile court and therefore forfeited any challenge on appeal. “[A] reviewing court ordinarily will not consider a challenge to a ruling if an objection could have been but was not made in the trial

⁴ Lorena also argues that the juvenile court violated Family Code section 3424, subdivision (d) by failing to immediately communicate with the Colorado court regarding its 2010 order. The subject statute requiring immediate communication applies when a California court merely has “temporary emergency jurisdiction.” (Fam. Code, § 3424, subds. (a), (d).) Because California is Junior’s home state, the basis of the court’s jurisdiction was not temporary emergency jurisdiction. (Fam. Code, §§ 3421, subd. (a)(1), 3424, subd. (a).)

court.” (*In re S.B.* (2004) 32 Cal.4th 1287, 1293, superseded by statute on other grounds as stated in *In re S.J.* (2008) 167 Cal.App.4th 953, 962.)

Even if consideration of the issue were warranted, Lorena fails to establish prejudicial error. She cites to *In re Angel S.* (2007) 156 Cal.App.4th 1202, 1207, which found that a section 388 petition could not be used to modify or terminate a probate guardianship, because the stated purpose of section 388 is to “change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court’ (§ 388, subd. (a)),” and a probate guardianship “is not established by an order previously made by the juvenile court.” (*In re Angel S.*, at p. 1207.) The appellate court in *In re Angel S.* found that a probate guardianship could be modified or terminated exclusively through Probate Code section 728—which provides for termination of modification of a probate guardianship by the juvenile court—and not through section 388. (*In re Angel S.*, at pp. 1206-1208.) Nevertheless, the court determined the appellant forfeited the issue by failing to object in the juvenile court. (*Id.* at p. 1209.) Moreover, any error committed by the juvenile court in terminating a probate guardianship based on the filing of a section 388 petition was harmless, because section 388 did not impose a lesser burden on the moving party. (*In re Angel S.*, at p. 1209.)

Assuming that Lorena is correct that section 388 was an improper procedure to terminate the guardianship here—which was not a probate guardianship, like the one in *In re Angel S.*, but rather a dependency guardianship, albeit one issued by another court—we find that any asserted error was harmless. Other than arguing the possible procedural infirmity of the method used to terminate the guardianship in the juvenile court, Lorena does not identify any harm arising from the termination of the guardianship based on the filing of the section 388 petition. She does not contend that an alternative method would have placed a heavier burden on the movant. And she does not argue

that Junior’s “best interests” were not served by termination of the guardianship, which is the primary consideration when terminating a dependency guardianship. (See *In re Z.F.* (2016) 248 Cal.App.4th 68, 72 [discussing standards for terminating a dependency guardianship].) Her contention accordingly fails.

II. *The filing of a new proceeding*

Lorena next argues that the juvenile court erred by allowing adjudication of issues, claims, and facts that had already been litigated or could have been litigated in the prior dependency proceeding. At the jurisdictional hearing in the prior proceeding, the juvenile court dismissed allegations that Lorena placed all four children at risk of serious harm by slapping Junior. The court also dismissed allegations that Junior was placed at risk of serious emotional damage by being forced to sell candy and sleep on the floor, and by Lorena telling the other children not to speak with him. Lorena contends that these dismissals—and the result that the only sustained allegations in the first proceeding expressly pertained to Paola—constituted *res judicata*, preventing the juvenile court in the instant proceeding from considering allegations pled in the October 2018 section 300 petition. The juvenile court overruled an objection along these lines at the October 2018 jurisdictional hearing.

We find no error on the part of the juvenile court in adjudicating the new section 300 petition. Lorena focuses on the claim preclusion effect of *res judicata*. She cites the general law that “*Res judicata*, or claim preclusion, prevents relitigation of the same cause of action in a second suit between the same parties or parties in privity with them.” (*Mycogen Corp. v. Monsanto Co.* (2002) 28 Cal.4th 888, 896.) A primary problem with Lorena’s argument is that a fundamental aspect of claim preclusion—relitigation of the same cause of action—is at least partially absent. The initial section 300 petition contained no allegations of physical abuse of Victor. In contrast, the sustained allegations in the instant proceeding contained three counts centered

around the physical abuse of Victor. These were claims that were not litigated in the prior proceeding.⁵

Lorena's argument improperly ignores the application of res judicata in the dependency context. The appellate court in *In re Jessica C.* (2001) 93 Cal.App.4th 1027 dealt with a similar issue to the one here, where a second petition containing allegations of sexual abuse was filed following dismissal of sexual abuse allegations in a prior proceeding. The father in that case argued that the hearing on the second petition relitigated the same claims as those in the original petition, and was therefore barred by res judicata. (*Id.* at p. 1038.) The appellate court rejected this argument because the second petition involved new disclosures of abuses, and "[n]ew disclosures of child abuse, substantively different from previous disclosures, do constitute new evidence." (*Id.* at p. 1039.) It held: "it would be too broad an application of collateral estoppel to hold that further disclosures could not be the subject of some sort of jurisdictional hearing. To do so would be to penalize children who are too shy or reticent to disclose the full extent of their sexual abuse prior to the initial dependency petition." (*Id.* at pp. 1039-1040, fn. omitted.)

Although this case involves physical and emotional abuse, rather than sexual abuse, *In re Jessica C.*'s reasoning applies equally well here. It was not until after the initial section 300 petition was adjudicated that Victor began to disclose his history of physical abuse, and the harm to him and his siblings became apparent. When the initial proceeding commenced in November 2017, Victor denied any abuse to himself or his siblings, including Paola. In contrast, in October 2018, over three months after adjudication of the initial section 300 petition, Victor acknowledged that Lorena hit him for doing "bad

⁵ Because we find that the juvenile court properly exercised jurisdiction based on the physical abuse of Victor, we do not reach the issue of whether res judicata may have barred adjudication of claims pertaining to the emotional abuse of Paola.

stuff.” Later, at the jurisdictional hearing in this proceeding, Victor divulged that Lorena hit him from the time he was in first through fifth grade, used a belt or hangers on his legs and thighs, sometimes leaving bruises, made him take cold showers with his clothes on, and took pictures or videos when he cried to humiliate him. Tellingly, Victor also admitted that he had previously been scared to speak up about the abuse and his fear of Lorena, because he thought he would get in trouble with her if he did.

Just as in *In re Jessica C.*, *supra*, 93 Cal.App.4th at pages 1039-1040, disregarding Victor’s eventual disclosures by prohibiting a second proceeding would harm the children simply because Victor was initially “too shy or reticent to disclose” the abuse.⁶ The dependency system is designed to protect children who are abused by their caretakers and justifiably fearful of them. Lorena’s proposed, overly broad application of res judicata would thwart the objective of protecting such children.

III. *Jurisdictional findings*

In her final argument, Lorena contends that the juvenile court’s jurisdictional findings as to only certain allegations were not supported by substantial evidence. Specifically, Lorena asserts that emotional abuse and cruelty counts, premised on the emotional abuse inflicted on Paola and the risk of serious emotional damage the abuse created for Junior, lacked sufficient evidence. Lorena acknowledges that her challenge to the sufficiency of the evidence does not address the counts based on the physical abuse of Victor.

Because we have already determined that the juvenile court properly exercised jurisdiction in this proceeding based on the physical abuse of Victor, we decline to reach this argument. “When a dependency petition alleges multiple grounds for its assertion that a

⁶ Although Junior briefly reported limited instances of physical abuse of Victor in the prior proceeding, Victor himself denied being abused. The extent and existence of the harm only became apparent during the pendency of the instant proceeding.

minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence.” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) “As long as there is one unassailable jurisdictional finding, it is immaterial that another might be inappropriate.” (*In re Ashley B.* (2011) 202 Cal.App.4th 968, 979.)

Although a reviewing court may exercise its discretion to address jurisdictional challenges in such instances (see *In re I.A.* (2011) 201 Cal.App.4th 1484, 1493), Lorena does not explain why doing so is warranted here. It is not reasonably probable that Lorena would have obtained a more favorable result if the challenged allegations were dismissed, and she does not demonstrate that any error in the jurisdictional findings is likely to cause prejudice going forward, in particular because the evidence that Paola suffered emotional abuse was overwhelming.

DISPOSITION

The petition for extraordinary relief is denied. Any stay of the section 366.26 hearing still in effect is dissolved. This opinion shall become final immediately upon filing. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

_____, Acting P.J.
ASHMANN-GERST

We concur:

_____, J.
CHAVEZ

_____, J.
HOFFSTADT